

**DEFENDANT'S SURREPLY EXHIBIT B**

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3  
4 JLB REALTY, LLC,

5 Plaintiff

6 vs.

CASE NO. 1:09-CV-00632 BEL

7 CAPITAL DEVELOPMENT, LLC,

8 Defendant

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12 The deposition of DAVID HOLMES was held on  
13 Thursday, September 10, 2009, commencing at 9:35 a.m.,  
14 at the Law Offices of Venable, LLP, 750 East Pratt  
15 Street, Suite 900, Baltimore, Maryland 21202, before  
16 Steven Poulakos, Notary Public in and for the State of  
17 Maryland.

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20  
21 REPORTED BY: Steven Poulakos

JLB Realty, LLC vs  
Capital Development, LLC

David Holmes  
September 10, 2009

<p style="text-align: right;">Page 146</p> <p>1 right now, yours is still one that we'd like to do, but 2 it's challenging. We just need to find a way to work 3 together on how we can get this thing financed. 4 That was -- that's the gist. I think I 5 just sat and listened more than anything. And we 6 talked about, you know, what happens if you just can't 7 get financing, you know. I didn't want to keep 8 spending a lot of time and effort and money on teaming 9 with JLB if they just aren't able to find the financing 10 out there. And Gary reiterated that he didn't think 11 that was the case. He thinks there is a way that we 12 could probably find this. But they wouldn't drag it 13 on. They would probably stop it and call it a day. 14 BY MR. PRISBE: 15 Q I understand you say you listened -- in 16 your mind, you listened a lot. What did you say, if 17 anything? 18 A I was shocked. I just didn't see it 19 coming. Part of it is right up to that, Gary's been 20 pretty clear about this is a great project for him and 21 his team, as well as JLB. We were really moving the</p>	<p style="text-align: right;">Page 148</p> <p>1 Q What did you discuss about renegotiation? 2 A I was shocked, numb. I told Gary, let me 3 think about, you know, some ideas. I remember asking 4 him, you know, what are some of the things you're 5 thinking, and Gary mentioned to me that on his drive up 6 to Baltimore that morning, that he was thinking of -- 7 an easy solution would be just to split it in half and 8 do it in two phases, as opposed to one project. And he 9 asked me how did I feel about that. 10 I told him, you know, let me just digest 11 all of this. I feel like I got hit with a frying pan. 12 It was just shocking. And that we were going to get 13 through the holidays, the next day was New Year's Eve, 14 and that we would circle back and take the next four 15 days or so to try to figure out what makes sense for 16 us -- what makes sense for us, being Tina and myself, 17 what makes sense for us as being a team with JLB, and 18 then what makes sense for JLB. So I just wanted to 19 kind of clear -- bring all of my thoughts together on 20 it, so -- 21 Q What, if any, discussion did you have about</p>
<p style="text-align: right;">Page 147</p> <p>1 design process along. There was a lot of pressure for 2 everybody to make sure that we got the construction 3 drawings in by the July 1st date, which triggered a 4 lead certified building requirement. That there just 5 seemed to be no indications at all that at the end of 6 the day, with -- even with, you know, the credit 7 markets the way they were, I always just got the 8 impression that this was one project that JLB would 9 certainly want to continue working on, even if they let 10 other projects go. 11 Q And you said the way the credit markets 12 were. What do you mean by that? 13 A It just became more challenging for -- 14 banks weren't really lending. If they were, you know, 15 they were coming up with 40 percent equity in some 16 cases. The challenges were starting to become clearer 17 and louder as you witnessed other projects out there 18 unable to get financing. 19 Q In fact, by December of 2008, was the 20 financial meltdown, the stimulus package, correct? 21 A Yes.</p>	<p style="text-align: right;">Page 149</p> <p>1 them pulling out in the future if financing didn't work 2 out? 3 A Well, with Gary, you know, he always talked 4 about how this was -- and I hate to keep saying it, but 5 if it was the last project that JLB wanted to do, that 6 this was going to be it. I don't know the depth of all 7 of the other projects. I can't really express whether 8 I think my project was any better than some of the 9 other ones out there, but it was always that common 10 element that Gary always portrayed, that was the top of 11 their list. 12 And Gary's thought when we had this 13 conversation is that we're going to find some closure 14 on this. The credit market is down, but I remember him 15 mentioning that Jim Bosner is comfortable with the 16 40 percent. That's where the markets are. I remember 17 we had this conversation about -- you know, in the 18 fall, you were hearing people putting up 30 percent 19 equity. By the end of the year, they were 40 percent 20 equity. 21 Gary mentioned that Jim Bosner was</p>